AUG 13 1974
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

NO. 74-113

J. B. KEYS, *Petitioner,*

v.

DR. GRANVILLE SAWYER, *Respondent.*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

J. B. KEYS, *Pro se,*
for Petitioner
5034 Mallow Street
Houston, Texas 77033
733-0067

Alpha Law Brief Co., One Main Plaza, No. 1 Main St., Houston, Texas 77002

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LIST OF AUTHORITIES CITED

CASES

POINT 1:

Federal Trust Co. v. East Hartford Fire Dist., 283 F. 95
Stricklen v. Regents of Univ. of Wisconsin, 297 F. Supp. 416 (1969)
Sullivan v. Houston Ind. School Dist., 307 F. Supp. 1328 (1969)
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LAW REVIEWS

POINT 1:

Vanderbilt Law Review, Vol. 22, p. 1071, *"Constitution On The Campus,"* Prof. Charles Alan Wright
UCLA Law Review, Vol. 10, p. 368, *"Procedural Due Process And State University Students,"* Professor William W. Van Alstyne
Harvard Law Review, Vol. 70, p. 1406, *'Dismissal Of Students: "Due Process,"'* Professor Warren A. Seavey
Stanford Law Review, Vol. 10, p. 746, *"A Student's Right to Hearing On Dismissal from a University"*
Tennessee Law Review, Vol. 18, p. 210, *"Student Section,"* Paul H. Clark

POINT 2:

Walters v. Battenfield, 155 P. 721
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Freudenreich v. Mayor and Council of Borough of Fairview, 176 A. 162

IN THE

Supreme Court of the United States

NO._____

J. B. KEYS, *Petitioner,*

v.

DR. GRANVILLE SAWYER, *Respondent.*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

J. B. Keys, petitioner, prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit entered in this case on June 11, 1974.

There is no date of any order respecting a rehearing nor any terms of any order granting an extension of time within which to petition for certiorari.

Opinion Below

The opinion of the Court of Appeals below has not appeared in the Federal Report. The opinion of the District Court below has not appeared in the Federal Report, but a copy of its opinion is attached hereto as "Ex-

hibit A." Enclosed also are the decision and judgment of the Court of Appeals below attached as Exhibits "B" and "C" respectively.

Jurisdiction

The judgment of the Court below was entered on June 11, 1974. Petitioner presented this matter pro se to the Fifth Circuit Court of Appeals from the District Court. The jurisdiction of this Court is invoked under Title 28, Section 1254 (1).

Constitutional Provision

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

UNITED STATES CONSTITUTION, AMENDMENT XIV

Questions Presented for Review

I.

Can a university disciplinary committee arbitrarily assembled comprised of law professors indefinitely expel law student for allegedly distributing leaflets through mail?

II.

Does filing a different matter against same defendants as in previous litigation constitute *res judicata?*

STATEMENT

Plaintiff, J. B. Keys, was formally enrolled Summer Semester, 1970, at tax-supported institution School of Law, Texas Southern University, Houston, Texas, in good and regular standing when he made an academic visit to the office of Academic Vice-President, Dr. H. Hadley Hartshorn concerning academic practices of law professors, 26 July, 1970. Student Keys made an academic visit to the office of University President, Dr. Granville Sawyer, 29 July, 1970, concerning academic practices of law professors. For some unknown reason, Dr. Sawyer and Dr. Hartshorn ignored student Keys.

September 16, 1970, student Keys mentioned academic practices of law professors to Dean Otis King, School of Law. For some unknown reason, Dean King ignored student Keys' academic request.

Student Keys wrote an academic letter 3 August, 1970, by certified mail to University President, Dr. Granville Sawyer. For some unknown reason, Dr. Sawyer ignored and did not answer the letter. (A. 9)

Student Keys wrote an academic letter 21 October, 1970, by certified mail to Dean Otis King, School of Law. For some unknown reason, Dean Otis King ignored and did not answer the academic letter. (A. 11)

For some unknown reason, student Keys received a letter dated 5 November, 1970, telling student Keys he is charged with distributing leaflets by mail to University

President, Dr. Granville Sawyer and to academic Vice-President, Dr. H. Hadley Hartshorn. (A. 13) This letter was signed by Dean Otis King, School of Law, Texas Southern University.

Student Keys received a letter dated 13 November, 1970, from Law School Disciplinary Committee, School of Law, Texas Southern University, with regards to the Rescheduling of Hearing, bearing the signatures of Law Professor William Kimble and Law Professor Anna L. Taylor. (A. 14)

A hearing was held 17 November, 1970, before a Law School Disciplinary Committee consisting of three law professors. (Professor Anna Taylor, Professor Lonnie Gooden, and Professor Bill Kimble) (A. 15-18) No records or minutes kept. Dean Otis King and two law students testified student Keys was the cause of publishing and distributing leaflets by mail to University President, Dr. Granville Sawyer and to Academic Vice-president, Dr. H. Hadley Hartshorn.

Two university law professors presented the case against student Keys, one of which had given student Keys a "failing grade" in the course "Taxation" and would not allow student Keys to see his "examination paper." These were Profesor Eugene Harrington and Professor Albert Lehrman, who alleged student Keys caused the leaflets to be published and distributed to Dr. Sawyer and Dr. Hartshorn.

Law School Disciplinary Committee ruled student J. B. Keys "guilty" of distributing leaflets by mail to University President, Dr. Granville Sawyer and Academic Vice-President, Dr. H. Hadley Hartshorn and "indefinitely expelled" student Keys from Texas Southern

University. (A. 18) Dean Otis King told student Keys to withdraw from Class Attendance. (A. 19)

Student Keys wrote University President, Dr. Granville Sawyer a Certified letter 1 December, 1970, with regards to academic letters Dr. Sawyer and Dean Otis King ignored and did not answer. Student mentioned withdrawal but, continued to attend classes. (A. 20) For some unknown reason, Dr. Sawyer refused to answer and did ignore the letter of 1 December, 1970, as he ignored the letter of 3 August, 1970.

Dean Otis King wrote student Keys a letter dated 3 December, 1970, not to come back to Texas Southern University in light of Law School Disciplinary Committee's decision. (A. 19)

Academic Vice-president, Dr. H. Hadley Hartshorn threatened to jail student Keys for inquiring about academic matters. Dr. Hartshorn and Professor Albert Lehrman told student J. B. Keys if he submitted to tongue-baths his academic troubles would be over. (A. 22-23)

Student Keys filed litigation against Defendant, University President, Dr. Granville Sawyer for expelling student without "equal protection" (71-H-420) the same lower court in the instant case for some unknown reason, dismissed the matter without a reason. (A. 25)

In litigation C.A. 72-H-1384, law professor Albert Lehrman refused to allow student Keys to see his "final examination" paper after giving student Keys a "failing grade."

In litigation C.A. 72-H-1385, student Keys submitted a letter requesting taking a "final examination" at a

later date because of family matters, rather than taking the examination at the scheduled time. Because student Keys did not take the examination at the time scheduled he received a "failing grade."

In litigation 72-H-1386, student Keys filed a matter against Dr. Granville Sawyer on the basis of a "fair trial" in light of the decision in litigation 71-H-420.

For some unknown reason, the lower tribunals refused to try these cases on their merits separately. (72-H-1384, 72-H-1385, 72-H-1386) All cases were dismissed under litigation 72-H-1386. Student Keys has sought a number of times for a Court Record of the proceedings in C.A. 72-H-1386 with no success.

The instant matter is a civil action bought before the court of first instance in pursuant to United States Code Annotated, Title 28, Section 1343.

The judgment of the District Court was affirmed by the Court of Appeals for the Fifth Circuit on June 11, 1974.

Because of the foregoing practices of Texas Southern University Administration against petitioner, petitioner is unable to continue his education in good and regular standing as other students. Student Keys has tried on a number of occasions to enroll at Texas Southern University, but has been turned away.

Reasons for Granting the Writ

1. To say when a student is being disciplined that he be given an immediate hearing.

2. To assure that a student can be suspended from an educational institution only for behavior which the law prescribes suspension.

3. To say a student must be given the names of people who will testify against him.

4. To assure that no person be made to suffer for a breach unless standards of behavior have first been announced.

5. To say that a written decision is required with authorities when expelling a student from an educational institution.

6. To assure that when considering to discipline a student that it be done before an impartial hearing officer.

7. To assure it is not enough to say, "guilty of misconduct as charged."

8. To assure a student has the right to make a record of the hearing.

9. To say that an extended enforced absence from a university results in irreparable harm to a student.

10. To say an indefinite expulsion raises the serious question as to substantive due process.

11. To assure *"Four Fundamental Safeguards,"* are required in every proceeding that may lead to a serious penalty, in expelling students from an educational institution.

12. To assure res judicata does not bar matter of fact not previously alleged by either party, in the pleadings.

13. To assure res judicata requires identity in thing sued for, identity of cause of action, and identity of persons to the action, therefore res judicata is barred.

14. To assure res judicata does not bar new allegations.

15. To assure a second suit involving a different cause of action against the same parties is not barred by res judicata.

Conclusion

Plaintiff's reasons hereinabove for the requesting of this Honorable Court's Writ are substantial and warrant consideration.

Dated: 8/8/74

Respectfully submitted,

J. B. KEYS, *Pro se,*
for Petitioner
5034 Mallow Street
Houston, Texas 77033
733-0067

APPENDIX

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION NO. 73-H-1641

J. B. KEYS

V.

DR. GRANVILLE M. SAWYER, ET AL.

FINAL JUDGMENT

BE IT REMEMBERED that this cause came on to be heard on defendants' Motion for Summary Judgment; and it appearing to the court, for the reason set forth in its Memorandum and Order of this date, that defendants' motion must in all respects be granted, it is hereby

ORDERED, ADJUDGED and DECREED that Summary Judgment be granted for the defendants and against the plaintiff and the complaint is hereby DISMISSED. All costs are assessed against the plaintiff.

The clerk shall file this Order and send copies to counsel and Mr. Keys.

DONE at Houston, Texas, on this the 23rd day of January, 1974.

JOHN V. SINGLETON
United States District Judge

(Seal)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION NO. 73-H-1641

J. B. KEYS

V.

DR. GRANVILLE M. SAWYER, ET AL.

MEMORANDUM AND ORDER:

In this cause plaintiff presents a challenge to the actions of the officials of Texas Southern University Law School identical to the challenge presented in C.A. 71-H-420 and C.A. 72-H-1386. He changes his complaint slightly, however, in order to emphasize that he is a black man and to allege obliquely that the actions of the officials were taken against him as the result of his race.

The plaintiff was enrolled at the Texas Southern University School of Law during the summer semesters of 1969 and 1970 and the fall semester of 1970. He received failing grades in two of his subjects, one because he did not take the final examination. Subsequently, he attempted to have the grades changed and this aspect of his cause has been treated in other cases in the Southern District, specifically C.A. 72-H-1384 and C.A. 72-H-1385. The subject of this suit, however, is the action of the Law School Disciplinary Committee in expelling him from the university. Two members of the faculty, Professor Albert Lehrman and Professor Eugene Harrington, had charged

the plaintiff with making false and libelous statements about them. Specifically, the plaintiff was charged with publishing and distributing to the university president and vice president, during the first week in November 1970, statements that both professors had called students "Nigger."

A hearing was held November 17, 1970. There is no transcript of the hearing in the file, but minutes were drawn up. The plaintiff has not challenged the accuracy of these minutes. They reveal that a hearing was held at which both sides were allowed to present evidence and witnesses. The disciplinary committee decided that plaintiff was guilty of publishing a leaflet containing libelous statements and decided unanimously to expel him "indefinitely" from the Texas Southern University Law School. On December 3, 1970, however, by letter the plaintiff had informed Dr. Sawyer, President of Texas Southern University, that because of the hostile atmosphere, he wished to have his letter considered as a formal withdrawal from the School of Law for the fall 1970 semester. The plaintiff thereafter failed to appeal through administrative channels, but filed suit in the federal courts.

The instant case differs from the previous two litigations of the case because here plaintiff attempts to allege racial discrimination. First, he asks why he was "denied jury trial," in C.A. 71-H-420 and C.A. 72-H-1386, and implies that jury trial was denied him because he is black. A cursory glance at the final judgment in the two cases reveals, however, that they were disposed of on motions for summary judgment. The cases never reached the stage of jury trial.

Next, plaintiff asserts that professors are not allowed to participate in decisions expelling white students, but that

three professors sat on the disciplinary committee that expelled him, a black man. Taking his allegations as true, there is no charge of racial discrimination since any difference in his treatment from all white students is not necessarily attributable to his race. Plaintiff is careful not to allege that white students do not receive the same treatment as black students, but that he, a black student, received treatment different from white students. He is also careful not to allege that the placing of professors on the disciplinary committee was racially motivated and he fails to give a clue to how the presence of the professors on the disciplinary committee could have harmed him because of his race.

Finally, he alleges that United States judges do not rule against white students demonstrating peacefully or distributing leaflets by mail, or deny white students jury trials without explanation, and that they do always apply "Four Elementary Constitutional Safeguards" to white students, but that he, a black student was denied same. If these allegations be taken as true, they fail to state a claim against the named defendants.

Plaintiff's references to his race, when scrutinized, are not sufficient to state claims of racial discrimination.

Ultimately plaintiff's action must fail because of the doctrine of *res judicata*. A judgment on the merits in a prior suit involving the same parties or their privies bars a second suit based on the same cause of action. *Lawlor v. National Screen Corporation*, 349 U.S. 322 (1955). What is more, additional facts or grounds of recovery which existed at the time the first suit was brought and which might have been urged in the first suit are also barred by the doctrine of *res judicata*. 50 C.J.S. "Judg-

ments" § 650, *cf. Estevez v. Nabers*, 219 F.2d 321 (5th Cir. 1955).

The controversy presented to the court in C.A. 71-H-420 was brought by the plaintiff against

> "DR. GRANVILLE M. SAWYER, Individually & in His Official Capacity as President of Texas Southern University, Houston, Texas; DR. H. HADLEY HARTSHORN, Individually and in His Official Capacity as Academic Vice President of Texas Southern University, Houston, Texas; DEAN OTIS H. KING, Individually and in His Official Capacity as Dean, School of Law, Texas Southern University, Houston, Texas; BOARD OF DIRECTORS, Individually and in Their Official Capacities as Members of the Board of Directors of Texas Southern University, Houston, Texas, and Their Successors in Office, Agents and Employees."

The persons sued in the instant case are either identical to those in the first suit or are easily classifiable as "Agents" or "Employees," to wit

> "PRESIDENT GRANVILLE SAWYER, DEAN OTIS KING, Assistant to the Dean, JETHRO CURRY, DISCIPLINARY COMMITTEE and BOARD OF DIRECTORS, all in their individual and official capacities and their successors in office, agents and employees of Texas Southern University, Houston, Texas."

Also see 50 C.J.S. "Judgments" § 796.

The parties are in both suits; therefore, the same or in privity with them.

The final judgment in C.A. 71-H-420 was a judgment on the merits. By granting a motion for summary judg-

ment pursuant to Rule 56, Federal Rules of Civil Procedure and terminating the suit, the court reached a final adjudication on the merits. MOORE, FEDERAL PRACTICE AND PROCEDURE ¶0.409 [1] (2d ed. 1965). See also *Keys v. Sawyer*, 353 F.Supp. 936 (S.D. Tex. 1973).

Plaintiff has failed to state a claim of racial discrimination, but even if he had, *res judicata* would bar his claim because the state of facts were fixed as of December 1, 1970, and Mr. Keys might have brought an action alleging racial discrimination at the time he brought his C.A. 71-H-420. He chose not to do so and is precluded from doing so now.

Accordingly, after considering the pleadings and affidavits in this case and those in C.A. 71-H-420, C.A. 72-H-1384, C.A. 72-H-1385, and C.A. 72-H-1386, the court finds that the law and the facts are with the defendants and against the plaintiff; that the final judgment entered in Civil Action No. 71-H-420, entitled J. B. Keys v. Dr. Granville M. Sawyer, et al., in the United States District Court for the Southern District of Texas is a complete bar and defense to plaintiff's case.

It is, therefore, ORDERED, ADJUDGED, and DECREED that defendants' Motion for Summary Judgment be, and is hereby, granted, with plaintiff to pay costs.

DONE at Houston, Texas, on this the 23rd day of January, 1974.

JOHN V. SINGLETON
United States District Judge

(Seal)

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 74-1920

Summary Calendar*

J. B. KEYS, Plaintiff-Appellant

v.

President GRANVILLE SAWYER, et al., Etc.,
Defendants-Appellees

Appeal from the United States District Court for the
Southern District of Texas

(June 11, 1974)

Before BELL, SIMPSON and MORGAN, Circuit Judges.

PER CURIAM: AFFIRMED. See Local Rule 21.[1]

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* Rule 18, 5 Cir., Isbell Enterprises, Inc. v. Citizens Casualty Company of New York, et al., 5 Cir., 1970, 431 F.2d 409, Part I.

1. See N.L.R.B. v. Amalgamated Clothing Workers of America, 5 Cir., 1970, 430 F.2d 966.

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

October Term, 1973

No. 74-1920
Summary Calendar

D. C. Docket No. CA-73-H-1641

J. B. KEYS, Plaintiff-Appellant,
versus
President GRANVILLE SAWYER, et al., etc.
Defendants-Appellees.

Appeal from the United States District Court for the Southern District of Texas

Before BELL, SIMPSON and MORGAN, Circuit Judges.

JUDGMENT

This cause came on to be heard on the transcript of the record from the United States District Court for the Southern District of Texas, and was taken under submission by the Court upon the record and briefs on file, pursuant to Rule 18;

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be, and the same is hereby, affirmed;

It is further ordered that plaintiff-appellant pay to defendants-appellees, the costs on appeal to be taxed by the Clerk of this Court.

June 11, 1974

Issued as Mandate:

CERTIFIED MAIL

5034 Mallow Street
Houston, Texas
August 3, 1970

Dr. Granville M. Sawyer, President
Texas Southern University
3201 Wheeler Street
Houston 4, Texas

Dear President Sawyer

Since my visit to Dr. Hadley Hartshorn's office Saturday, July 26, 1970, and more recently, a visit to your office Monday, July 28, 1970, with regards to a grade of "F" in the course Law 740, Taxation 1, I was told by Professor Albert Lehrman, who taught the course, Tuesday, July 29, 1970, that he would go over my "examination paper" with me at 10:30 a.m. Wednesday, July 30, 1970.

Needless for me to say, Professor Lehrman was not in his office at the time designated. Prior to and since the time designated, Professor Lehrman has been evasive with regards to me.

Because of Professor Lehrman's actions in and out of the class-room with regards to me as a student, with special emphasis upon his reluctance to going over my "examination paper" in the course Law 740, Taxation 1, with me, I certainly do not feel Professor Lehrman has acted to the best interest of the Law School, Texas Southern University.

Although I do not contest Professor Lehrman's knowledge, but it is a fact that he has a cruel, ruthless attitude toward select students based upon his emotions, and a vain indifference to his responsibility as a Professor of Law in

a professional institution of higher education. Professor Lehrman definitely lacks the essential ingredients of personal and professional integrity, vital elements in teacher and student learning situations.

By virtue of the foregoing, will your office please consider this letter a request for a *reasonable explanation* why I, J. B. Keys, a student currently enrolled in School Of Law, Texas Southern University, received a final grade of "F" in the course of Law 740, Taxation 1, or in lieu of such *reasonable explanation*, a final grade change from "F" to no less than "C" in the course Law 740, Taxation 1?

Respectfully yours

/s/ J. B. KEYS
J. B. Keys

A11

CERTIFIED MAIL

5034 Mallow Street
Houston 33, Texas
October 21, 1970

Professor Otis H. King
Dean School of Law
Texas Southern University
3201 Wheeler Street
Houston, Texas

Dear Dean King

During the First Term of the Summer Semester, 1970, as I made known to you in the hallway 16 September, 1970, I enrolled in Taxation 1, Law 740. My "Final Grade" in this course was "F." I have enquired on several occasions that my final examination paper be gone over with me, to no avail. Will your office please consider this letter a request for a copy of this examination paper for my personal records?

I was not allowed to enroll in Texation 11, Law 741, during the Second Term of the Summer Semester, 1970, but several Freshman students were allowed to enroll, although they had never had any law courses in the past. As a student, will your office please explain to me how such enrollment determination are made?

Since I have been at Texas Southern University, School of Law, I have never received a catalog, or any notice of publication pertinent to Grades, Credits, Academic Regulations or Rules. Nor have any such information been posted for student convenience, even October 21, 1970.

During the Summer Semester, 1969, I enrolled in Legislation, Law 715. Because I did not take the final examination, my final grade was "F." Will your office please consider this letter also, a request for an examination in Legislation, Law 715?

Respectfully yours

/s/ J. B. KEYS
J. B. Keys

cc: President, Granville M. Sawyer

TEXAS SOUTHERN UNIVERSITY
Houston, Texas
November 5, 1970

School of Law
Office of the Dean

Mr. J. B. Keys
5034 Mallow
Houston, Texas

Dear Mr. Keys:

This is to inform you that two members of the faculty, Professor Albert Lehrman and Professor Eugene Harrington have charged you with publishing and distributing false and libelous statements concerning them.

They specifically charge that you caused to be published and distributed to the University President and Vice President during the first week in November 1970 the following statements:

"White Law Professor Albert Lehrman called a student a 'Nigger' ".

"White Law Professor Eugene Harrington called a student a 'Nigger' ".

They categorically deny that there is any truth or substance in such statements.

A hearing will be held on Tuesday, November 10 at 3:30 p.m. in Room 209 of Hannah Hall to hear these charges against you. Please be present. The hearing will be held as scheduled with or without your presence.

Very truly yours,

/s/ OTIS H. KING
Otis H. King
Dean

OK/b

TEXAS SOUTHERN UNIVERSITY
Houston, Texas
November 13, 1970

School of Law
Office of the Dean

To: Mr. J. B. Keys
From: Law School Disciplinary Committee
Re: Re-Scheduling of Hearing
Date: November 13, 1970

This letter is a supplement to the letter of November 5, 1970, which you recived from Dean Otis H. King.

The charges alleged against you remain the same, but your hearing has been postponed until Tuesday, November 17, 1970 at 3:30 P.M. The determination to postpone your hearing was made prior to Mr. Gooden's departure for San Antonio on Wednesday, November 11, 1970. The decision to postpone was the unanimous decision of the committee. Please be present. The hearing will be held as scheduled with or without your presence.

Yours truly,

/s/ WILLIAM KIMBLE
William Kimble

/s/ ANNA L. TAYLOR
Anna L. Taylor

/s/ SAMUEL JACKSON
Samuel Jackson

/s/ STELLA BATISTE
Stella Batiste

/s/ DONALD FLOYD
Donald Floyd

LAW SCHOOL DISCIPLINARY COMMITTEE

Samuel Jackson, Bill Kimble, Stella Batiste, Donald Floyd, Anna Taylor, committee members. Lonnie J. Gooden, Chairman (in absentia).

Hearing Date: November 17, 1970

I

Mr. J. B. Keys was given notice by certified mail of hearing scheduled for November 10, 1970. Hearing reset until November 17, 1970.

II

The administrative hearing began at approximately 4:10 p.m. A motion was made by Professor Lehrman and Harrington for a closed hearing because of the delicate racial issue involved. The professors pointed out that Mr. Keys had no right to an open hearing. If proved, the charges would be libel per se and the open hearing would allow further perpetuation of the libel. Mr. Keys objected to the motion. There was a discussion by the committee and by a vote of 4 to 1, it was decided that the hearing should be open.

Professor Lehrman began to present the administration's case at approximately 4:30 p.m. The first witness called was Dean Otis King. Professor Lehrman introduced an envelope and a pamphlet or publication that Dr. Hadley Hartshorn had received in the mail. Dean King testified that Dr. Hartshorn gave him the envelope which contained the phamplet personally. The envelope had the same return address as one listed for Mr. Keys in the records of the Dean's office. Profesor Lehrman made a motion to present this letter into evidence. Mr. Keys objected. The objection was overruled and the committee viewed the envelope and its contents. The pamphlet con-

tained libelous and slanderous statements which were allegedly made by Mr. Keys.

A second envelope, containing a letter written by Mr. Keys to Dean King concerning a "final grade" in Taxation I, Law 740, was identified by Dean King. In a comparison of the two envelopes, the Dean testified that both have the same type and format. Mr. Keys objected to the comparison made by Dean King. The objection was overruled.

On cross-examination, Mr. Keys asked why the letter was not notarized. The question was objected to and the objection was sustained. On further cross-examination, Dean King identified copies of the letters sent to Mr. Keys by the Dean concerning the alleged charges and hearing. There was no presentation of the originals. There were two letters. One was personally served upon Mr. Keys on campus and one was sent to him by registered mail.

The second witness called by Professor Lehrman was Miss Earline Miles. Miss Miles testified that she had a discussion with Mr. Keys about the leaflet approximately two weeks ago. In the first conversation Mr. Keys denied knowledge of the leaflet. In the second conversation he denied authoriship of the leaflet. In the third conversation Mr. Keys stated that he distributed five copies of the leaflet (three to the President of the University and two to Dr. Hartshorn). Miss Miles further testified that Mr. Keys stated he had 4,000 copies of the leaflet in his possession that would be distributed if the final grade in Taxation 740 were not changed from F to C.

On cross-examination Mr. Keys questioned Miss Miles as to whether or not she had posted a copy of the leaflet with a memo from BALSA. This line of questioning was objected to and sustained.

The third witness was Mr. Eni Hunkin. He testified that he had a conversation with Mr. Keys in the Law School library concerning a yellow copy of the leaflet. Mr. Keys did not say that he was the author but did not deny it either. Mr. Keys stated "if he couldn't go to law school no one could."

On cross-examination Mr. Keys asked whether or not Mr. Hunkin had seen Mr. Keys with a receipt for the memeographed copies. Mr. Hunkin answered in the negative but felt that Mr. Keys had some knowledge of the origin of the phamplet.

Professors Lehrman and Harrington denied categorically the allegations contained in the complaint and terminated their presentation.

In presenting his case Mr. Keys denied any participation in the drafting, distributing or publication of the leaflet. He stated that the "student" in the leaflet is not him. His address is 5034 Mallow, the same as indicated on the envelopes.

On cross-examination he testified that the publication must have been drafted by his cousin. His cousin's name is Israel Simmons who resides at 1054 E. 56th Street, Los Angeles, California. Mr. Keys further testified that he and his cousin have the same kind of typewriters; that his cousin sent the leaflets to the President of the University and Dr. Hartshorn; that he gave his cousin a letter to mail to the President along with a carbon copy of a letter to Otis King; that his cousin left for California three or four days after he mailed the letters; that his cousin later mailed the leaflets to Mr. Keys from California; and that he didn't contact his cousin when the charges were levied against him.

In their closing statement Professors Lehrman and Harrington stated that because of the seriousness and the effects that such allegations could have upon them, they recommend that Mr. Keys be given the strongest penalty, expulsion.

In his closing statement Mr. Keys stated that he did not have anything to do with the leaflet and recommended that the charges against him be dismissed.

DECISION: After deliberating, the committee returned the following verdict:

> As to the issue of whether or not Mr. Keys published the leaflet which would encompass the fact that he made libelous statements about Professors Lehrman and Harrington, the committee unanimously found Mr. J. B. Keys guilty. Furthermore, because of the facts presented at the hearing, it is the unanimous decision of the committe that Mr. J. B. Keys be expelled from the Texas Southern University Law School indefinately.

/s/ LONNIE J. GOODEN
Lonnie J. Gooden

/s/ SAMUEL JACKSON
Samuel Jackson

/s/ BILL KIMBLE
Bill Kimble

/s/ STELLA BASTISTE
Stella Bastiste

/s/ ANNA TAYLOR
Anna Taylor

/s/ DONALD FLOYD
Donald Floyd

TEXAS SOUTHERN UNIVERSITY
Houston, Texas

December 3, 1970

School of Law
Office of the Dean

Mr. J. B. Keys
5034 Mallow
Houston, Texas

Dear Mr. Keys:

Enclosed is the decision of the Law School Disciplinary Committee which heard the charges brought against you by professors Lehrman and Harrington.

As you were informed by the Acting Chairman of the Committee, the decision was that you were guilty of circulating a libelous publication and that you were expelled from the School of Law for so doing.

Please govern yourself in accordance with the decision of the Committee and withdraw from any further class attendance.

You have the right to petition for readmission in the future and any improper conduct on your part regarding the decision of the Committee could adversely affect any consideration of such a petition.

Very truly yours

/s/ OTIS H. KING
Otis H. King
Dean

OK/b

Enclosure: 1

5034 Mallow Street
Houston 33, Texas
December 1, 1970

Dr. Granville M. Sawyer, President
Texas Southern University
3201 Wheeler Street
Houston, Texas

Dear President Sawyer

On July 26, 1970, I made a visit to Dr. H. Hadley Hartshorn's office regarding the academic practices of Professor Albert Lehrman. Dr. Hartshorn's office took no action in this matter.

On July 20, 1970, I made a visit to your office concerning the academic matters I mentioned to Dr. Hartshorn on July 26, 1970. (Returned Receipt Requested) concerning Professor Albert Lehrman's academic practices. Your office took no action in this matter, neither did your office answer the letter.

On September 16, 1970, I brought this academic matter concerning Professor Albert Lehrman to the attention of Dean Of School Of Law, Otis King. I also directed a letter to Dean King's office, October 21, 1970 (Returned Receipt Requested) with regards to Professor Albert Lehrman's academic practices. Dean Otis King's office did not answer the letter, nor did he give my request any consideration.

On November 6, 1970, without an investigation being conducted, I was notified that I was being charged with distributing and mailing letters to your office and Dr. H. Hadley Hartshorn's with regards to Professor Eugene Harrington and Professor Albert Lehrman. I certainly

did not find this to be conducive to an academic atmosphere. A committee determined I was guilty of the charges on November 17, 1970, although no notarized or sworn statements were produced at the hearing, even though I requested such of all concerned parties.

Because of the foregoing recent experiences I have had at School Of Law, Texas Southern University, and because of my fear for violence and because of a hostile atmosphere, instead of an academic atmosphere at School Of Law, Texas Southern University, will your office please consider this letter a formal withdrawal from School Of Law, Texas Southern University for the current 1970 Fall Semester.

Respectfully yours

/s/ J. B. KEYS
J. B. Keys

cc: Board of Directors, Texas Southern University
Commissioner of Higher Education, State of Texas

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

Civil Action, File Number 73-H-1641

J. B. KEYS, PLAINTFF

v.

DR. GRANVILLE SAWYER, ET AL, DEFENDANTS

MOTION FOR SUMMARY JUDGMENT

Comes now the Plaintiff in the above styled matter and files this Motion for Summary Judgment, pursuant to Rules 12(c) and 56(a), Fed. R. Civ. Proc., and in support thereof would show this Court as follows:

First, black student's letter of 1 December, 1970, to Dr. Granville Sawyer, was of no effect for the following reasons: Dr. Granville Sawyer, President, Texas Southern University, refused to take action or even answer the academic letter of *black* student dated 3 August, 1970. When Dr. Sawyer refused to take action on the letter dated 3 August, 1970, why should this Court consider the letter dated 1 December, 1970, which Dr. Sawyer refused to answer. Proof of acts of discrimination against *black* student by Dr. Sawyer, President. Dr. Sawyer's office is set aside for administration. Registrar's Office, Texas Southern University, is set aside for student enrolling and withdrawals with forms and applications to be filled out and presented to Professors by students for initials. (167 NW 592) Therefore, *black* student's letter of 1 December, 1970, was of no effect. (Exhibit 4) *Black* student did continue to attend classes on December 1, 2, 3, 1970. But when Dean Otis King wrote *black* student a registered

letter dated 3 December, 1970, telling *black* student not to come back to Texas Southern University and outlining reasons thereof, that letter was binding against *black* student and depriving *black* student. (Title 42, U.S.C.A. Sec. 1983)

Second, Texas Attorney General has not explained why President Granville Sawyer treats any *black* alien or *black* American student different from *white* students at Texas Southern University.

Third, President Sawyer always answer academic letters from *White* students, but he ignored academic letters from *black* student.

Fourth, Dean Otis King, School of Law, Texas Southern University, always answer academic letters written by *white* students, but he ignored academic letter written by *black* student dated 21 October, 1970. But Dean King had enough time on hand to write *black* student a letter not to attend class anymore.

Fifth, Dr. H. Hadley Hartshorn, Academic Vice-president, Texas Southern University, threatened to jail *black* student for enquiring about academic matters (72-H-773), but Dr. Hartshorn never threatens *white* students. Dr. Hartshorn and Professor Albert Lehrman tried to get Plaintiff to submit to tongue-baths in exchange for grades.

WHEREFORE, Plaintiff seeks summary judgment in the above styled matter, or *TRIAL BY JURY*.

/s/ J. B. KEYS
J. B. Keys, Plaintiff
5034 Mallow Street
Houston, Texas 77033

NOTICE OF MOTION:

Please take notice Plaintiff above will bring the foregoing motion on for hearing in the forenoon of 14 January, 1974, at United States Court House, 515 Rusk Street, Houston, Texas, or as soon thereafter Plaintiff can be heard.

/s/ J. B. KEYS
J. B. Keys, Plaintiff
5034 Mallow Street
Houston, Texas 77033

CERTIFICATE OF SERVICE

I, J. B. Keys, Plaintiff in the above styled matter certify a copy of the foregoing motion was made upon Defendants by mail postage prepaid to Attorney General, Capitol Station, Austin, Texas, this 31 day of December, 1973.

/s/ J. B. KEYS
J. B. Keys, Plaintiff
5034 Mallow Street
Houston, Texas 77033

IN THE
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION NO. 71-H-420

J. B. KEYS, Plaintiff,
v.
DR. GRANVILLE SAWYER, ET AL, Defendants.

Filed December 30, 1971

Memorandum and Order:

Plaintiff alleges violations of 42 U.S.C.A. § 1983 et seq. and 28 U.S.C.A. § 1343 et seq in that officials and directors of Texas Southern University denied plaintiff a right to an education.

Defendants filed a motion to dismiss which motion is treated by this court as a motion for summary judgment under Fed. R. Civ. P. 12(b).

Plaintiff voluntarily withdrew from law school and was denied none of his constitutional rights. Defendant is entitled to judgment as a matter of law pursuant to Fed. R. Civ. P. 56.

It is, therefore, ORDERED, ADJUDGED and DECREED that defendants' motion for summary judgment is granted.

This is a final judgment.

DONE at Houston, Texas, on this the 30th day of December, 1971.

JOHN V. SINGLETON, JR.
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

CIVIL ACTION, FILE NUMBER 73-H-1641

J. B. Keys, Plaintiff

v.

President Granville Sawyer, Dean Otis King, Assistant To Dean Jethro Curry, Disciplinary Committte And Board of Directors All In Their Individual And Official Capacities And Their Successors In Office, Agents And Employees of Texas Southern University, Houston, Texas, Defendants

Received December 5, 1973

Jurisdiction founded on the existence of a question arising under particular statute.

This action arises under the Act of 28 United States Code, Title 28, Sec. 1343 and all Acts supplementary or amendatory thereto, as hereinafter more fully appears. The matter in controversy exceeds, exclusive of interest and costs, the sum of ten thousand dollars.

This action arises in pursuant to Texas Tort Claims Act, Vernon's Texas Statutes, Title 110 A-Public Officials, Art. 6252-19, Tort Claims Sec. 2(1), (3); Sec. 3.

Plaintiff was formally enrolled Fall Semester, 1970, School of Law, Texas Southern University, from where plaintiff was indefinitely expelled by Disciplinary Committee (Law Professors and outsiders, rather than plaintiff's peers) for the sole purpose of distributing leaflets. Texas Southern University Law Professors presented University's case against Plaintiff. Plaintiff bases his claim for relief he was denied due process and equal protection.

First, this matter was presented as *71-H-420* when plaintiff requested, but was denied jury trial. Plaintiff is a *black man* and do not know why he was denied jury trial. Plaintiff does not know why trial court took it on itself to issue judgment against plaintiff. Plaintiff's claim for relief was due process.

Second, this matter was presented as *72-H-1386* when plaintiff again requested, but was again denied jury trial. Plaintiff is a *black man* and do not know why he was again refused jury trial. Plaintiff could not testify in his behalf, but the Court issued judgement against plaintiff with out due process, or explanation.

Third, plaintiff received a letter dated November 5, 1970, telling him of charges by Texas Southern University Law Professors of distributing leaflets by mail. (Exhibit 1)

Fourth, Texas Southern University never allow Professors to participate in decisions when expelling *white* students, but Professor Lonnie J. Gooden, Professor Bill Kimble, Professor Anna Taylor were on Disciplinary Committee that expelled *black* student indefinitely from Texas Southern Law School. (Exhibit 2)

Fifth, with Texas Southern University Law Professors presenting case against *black* student, Texas Southern University Law Professors indefinitely expelled *black* student on the basis of distributing leaflets by mail, November 17, 1970. (Exhibit 2)

Sixth, although plaintiff denied distributing anything by mail or otherwise, plaintiff was directed by Dean Otis King not to attend class anymore in letter dated December 3, 1970, because of distributing leaflets by mail. (Exhibit 3)

Seventh, respondents never made a record of hearing where plaintiff was expelled from Texas Southern University by Law Professors.

Eighth, United States Judges never rule against *white* students demonstrating peacefully or passing out leaflets by mail, nor deny *white* students jury trials without an explanation.

Ninth, United States Judges always apply *"Four Elementary Constitutional Safeguards"* to *white* students with educational litigation, which was denied *black* student. (272 F. Supp. 947)

WHEREFORE, PLAINTIFF PRAYS FOR JUDGMENT AGAINST DEFENDANTS DIRECTING DEFENDANTS TO ADMIT PLAINTIFF TO TEXAS SOUTHERN UNIVERSITY IN GOOD AND REGULAR STANDING AS HE WAS BEFORE DEFENDANTS EXPELLED PLAINTIFF, AND PAY PLAINTIFF A SUM TOTAL OF $100,000 IN MONIES FOR DAMAGES: $50,000 FOR CONSEQUENTIAL DAMAGES AND $50,000 FOR EXEMPLARY DAMAGES. FOR ALL GENERAL AND EQUITABLE RELIEF AND FOR *TRIAL BY JURY*. PLEASE SERVE DEFENDANTS.

/s/ J. B. KEYS

J. B. Keys, Plaintiff
5034 Mallow Street
Houston, Texas 77033
Telephone: 733-0067